



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/811,601

03/29/2004

Siegfried Fischer

37105.0052

2710

26712

7590

03/20/2006

HODGSON RUSS LLP

ONE M & T PLAZA

SUITE 2000

BUFFALO, NY 14203-2391

EXAMINER

LANDRUM, EDWARD F

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/811,601	FISCHER, SIEGFRIED	
	Examiner	Art Unit	
	Edward F. Landrum	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 2, and 4-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 3 and 7-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 7, and 9 rejected under 35 U.S.C. 102(b) as being anticipated by Borter (U.S Patent No. 6,035,460).

Borter teaches (see Figure 1) a pressure plate (16, the shower door) and a wedge-shaped, parallel sided, U-shaped frame (the frame surrounding the shower door) which is detachably mounted to the pressure plate by magnets (24) wherein the frame and the pressure plate cooperate to form a watertight seal (Col. 6, lines 12-17). A shower door is capable of holding a razor that is snug as by a suction cup (McCoy (U.S Patent No. 5,839,198); see Figures 4 and 5; Col. 2, lines 35-43). The razor can be considered as a microtome in that skin and hair samples can be taken and used for DNA analysis to meet the definition of a microtome.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3724

4. Claims 1, 3, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman (U.S Patent No. 5,551,326) in view of Eagon (U.S Patent No. 5,351,812).

Goodman teaches (see Figure 4) a pressure plate (76), a wedge shaped, parallel sided, U-shaped frame member (74) mounted detachably on the pressure plate, open toward a knife edge (82) of a steel cutting knife (73; Col. 5, lines 63-65), wherein the frame (74) and the pressure plate (76) cooperate by use of a gasket (94; see Figure 5) to hold a liquid (84).

Goodman teaches all of the elements of the current invention as stated above except the U-shaped frame being detachably mounted by magnets.

Eagon teaches (Col. 1, lines 63-68; Col. 2, lines 1-11) providing magnets underneath gaskets in order to make a convenient and substantially airtight seal between two bodies.

It would have been obvious to have modified Goodman to incorporate the teachings of Eagon to place magnets underneath the gasket in order to make a better seal between the pressure plate and the U-shaped member.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified device of Goodman in view of Heid (U.S Publication No. 2001/0003938).

The modified device of Goodman teaches all of the elements of the current invention as stated above except the use of a pivotably mounted blade guard.

Heid teaches (Paragraph 31; also see Figure 1) the use of a pivotably mounted blade guard (10 and 11) attached to a knife holder.

It would have been obvious to have modified the modified device of Goodman to incorporate the teachings of Heid to create a safer cutting apparatus by incorporating a pivotable blade guard into the U-shaped frame.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 3, 7, and 9 have been considered but are moot in view of the new ground(s) of rejection.

In view of the new combination of claims 1, 2, 5, and 6 a new search was necessitated by the Examiner. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it is generally well known to make troughs useable for steel knives as stated by Goodman. Even though not applied previously the reference was cited to exemplify the general state of the art.

Regarding claim 8, Paragraph 31 of Heid teaches a second blade guard member including parts the holding jaw (10) and plate (11) that are pivotally attached to the knife holder.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Metzner (U.S Patent No. 5,669,278), Kindel et al (U.S Patent No. 4,221,146), Metzner et al (U.S Patent No. 5,964,138), Neymeyr (U.S Patent No. 6,058,824) teach pressure plates and boats for microtomes. Johnson et al (U.S Patent No. 4,542,545) teaches designed to make a watertight seal by using magnets. Wade (U.S Patent No. 6,263,582) teaches a razor sealable to a surface by use of suction cups.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward F. Landrum whose telephone number is 571-272-5567. The examiner can normally be reached on Monday-Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EFL
3/13/2006




Allan N. Shoap
Supervisory Patent Examiner
Group 3700